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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/698,362	10/27/2000	Phillip S. Pound	NORT-0082 (13421RRUS01U)	5842

21906 7590 08/29/2003

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EXAMINER

ENG, GEORGE

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 08/29/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/698,362

Applicant(s)

POUND, PHILLIP S.

Examiner

George Eng

Art Unit

2643

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-18, 20-22, 24-28, 30-33 and 35-46.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_.

  
George Eng

Primary Examiner  
Art Unit: 2643

***Response to Arguments***

1. Applicant's arguments filed 8/15/2003 (paper no. 6) have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that the combination of Riddle and Tabata fails to disclose "receiving information associated with at least one physical attributes of a party during a packet based call session, altering at least a portion of image associated with the party information on the received information, and displaying the altered image during the packet based call session", it appears that Riddle clearly discloses to establish a packet call session with a remote party over an Internet protocol network in order to receive and display an image received from the remote party during the packet call session (col. 6 lines 25-59, col. 7 line 32 through col. 9 line 15 and col. 13 line 34 through col. 16 line 17). Although Riddle does not specifically teach to receive information associated with at least one physical attributes of the party and to alter at least a portion of image associated with the party information on the received information in order to display the altered image during the packet based call session, such limitation are taught by Tabata (col. 10 line 1 through col. 12 line 20 and col. 22 line 36 through col. 25 line 44). In addition, Applicant's argument point out that Tabata is not teaching or suggestion of receiving information associated with at least one physical attributes of the party and altering at least a portion of image associated with the party information on the received

Art Unit: 2643

information in order to display the altered image **during the packet based call session**, Tabata is merely used for teaching a technique of efficiency transferring communicating image and voice without significant burdens to users in term of preparation time and effort by receiving information associated with at least one physical attributes of the party and altering at least a portion of image associated with the party information on the received information in order to display the altered image. Since Riddle clearly teaches to establish the packet call session with the remote party, the combination of Riddle and Tabata is enough to reject claims 1, 25 and 35, as well as the corresponding dependent claims.

In response to applicant's argument that the combination of Riddle and Tabata fails to disclose "the controller adapted to communicate Session Initiation Protocol messaging over a packet based network to establish a call session", it appears that Riddle clearly teaches to establish a packet call session with a remote party over an Internet protocol network (col. 6 lines 25-59). In addition, Riddle teaches to determine whether the network and transport protocols, which the system is currently using in order to initiate packet call session (col. 13 line 34 through col. 16 line 17) so that it recognizes the controller of Riddle adapted to different network and transport protocols, which are obviously including Session Initiation Protocol, to establish packet call session. Thus, claims 10, 18 and 30, as well as the corresponding depending claims, are rejected by the combination of Riddle and Tabata.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the

Art Unit: 2643

time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Riddle clearly discloses to displaying an image during communication (col. 9 lines 1-2). Although Riddle does not specifically teach to animate the image that is displayed, Tabata teaches to provide animation of the image during communication in order to efficiency transfer communicating image and voice without significant burdens to users in term of preparation time and effort. Thus, the combination of Riddle and Tabata is proper.